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6 Attorney for Plaintiff

7 **UNITED STATES DISTRICT COURT**

8 **CENTRAL DISTRICT OF CALIFORNIA — WESTERN DIVISION**
9

10 ACLU OF SOUTHERN CALIFORNIA,

11 Plaintiff,

12
13 v.

14 THE UNITED STATES DEPARTMENT OF
15 HOMELAND SECURITY,

16 Defendant.
17

Civ. No. 18-8917

**Complaint for Declaratory and
Injunctive Relief**

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19
20 1. This is an action under the Freedom of Information Act (FOIA), 5
21 U.S.C. § 552, seeking the release of records related to ICE agents' practice of
22 misrepresenting or concealing their identity when conducting enforcement actions.

23 **Jurisdiction and Venue**

24 2. This Court has jurisdiction over the parties and subject matter pursuant
25 to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

26 3. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

27 **Parties**

28 4. Plaintiff ACLU of Southern California is a non-profit organization
dedicated to defending and securing the rights granted by the U.S. Constitution and

1 Bill of Rights. ACLU SoCal's work focuses on immigrants' rights, the First
2 Amendment, equal protection, due process, privacy, and furthering civil rights for
3 disadvantaged groups. As part of its immigrants' rights work, ACLU SoCal monitors
4 Immigration and Customs Enforcement's practices.

5 5. Defendant Department of Homeland Security (DHS) is an agency of
6 the United States.

7 6. Immigration and Customs Enforcement (ICE) is a component of DHS.

8 7. ICE has possession, custody, and control of the records Plaintiff seeks.

9 **Statement of Facts**

10 8. As a part of its immigrants' rights work, Plaintiff requests public
11 records from local, state, and federal entities involved in law enforcement and
12 immigration enforcement activities. Plaintiff uses the documents disclosed through
13 public records requests to educate the public through reports, "know your rights"
14 trainings, and the media, and to advocate for reforms to immigration enforcement
15 policies and practices. This suit involves a FOIA request to ICE that remains
16 unresolved many months past FOIA's statutory deadline.

17 9. On February 12, 2018, Plaintiff sent a FOIA request to DHS's Privacy
18 Office, ICE, and ICE's Los Angeles Field Office by email and U.S. Mail seeking
19 information related to ICE agents' practice of misrepresenting or concealing their
20 identity when conducting enforcement actions.

21 10. Plaintiff requested a waiver of fees associated with processing its
22 request.

23 11. Plaintiff's request, including the exhibits to the request, are attached as
24 Exhibit 1 and incorporated here by reference.

25 12. On February 16, 2018, the ICE FOIA Office sent Plaintiff an email
26 stating that ICE granted Plaintiff's fee request and assigning the request reference
27 number 2018-ICFO-20417.

1 13. On February 16, 2018, DHS's Privacy Office sent Plaintiff a letter
2 stating that "[d]ue to the subject matter of [Plaintiff's] request, [it was] transferring
3 this request to the FOIA Office at the Office of Inspector General (OIG)."

4 14. The February 16, 2018, letter from the DHS's Privacy Office also
5 assigned the request a number: 2018-HQFO-00610.

6 15. On July 13, 2018, DHS OIG sent Plaintiff a letter stating that a search
7 of DHS-OIG Offices of Inspections, Audits and Special Reviews Group had revealed
8 no responsive records.

9 16. Plaintiff received no response to its request from ICE's Los Angeles
10 Field Office.

11 17. As of the filing of this Complaint, Plaintiff has not received a final
12 determination and response from ICE with regard to the request.

13 18. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), Plaintiff is deemed to have
14 exhausted its administrative remedies with regard to the request because the agency
15 has failed to comply with the statutory time limit.

16 **Count I: Violation of FOIA**

17 19. Plaintiff realleges and incorporates by reference the allegations in each
18 of the preceding paragraphs of this Complaint.

19 20. Defendant has violated FOIA by failing to produce the records
20 responsive to Plaintiff's February 12, 2018 request.

21 21. Plaintiff and the public have been and will continue to be irreparably
22 harmed until Defendant is ordered to comply with Plaintiff's FOIA request.

23 **Request for Relief**

24 WHEREFORE, Plaintiff respectfully requests that this Court:

25 (1) Declare Defendant's failure to comply with FOIA to be unlawful;

26 (2) Enjoin Defendant from continuing to withhold the public records
27 responsive to Plaintiff's FOIA request and otherwise order Defendant to produce the
28 requested public records without further delay;

1 (3) Grant Plaintiff an award of attorney fees and other litigation costs
2 reasonably incurred in this action, to the extent permitted by law; and

3 (4) Grant Plaintiff such other and further relief which the Court deems
4 proper.

5 Date: October 16, 2018

Respectfully submitted,

7
8 /s/ Matthew Strugar

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